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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/650,224      | 08/27/2003  | Dennis Barts         | 018360/258495       | 6350             |

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EXAMINER

WEBB, JAMISUE A

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3629

DATE MAILED: 06/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/650,224

Applicant(s)

BARTS ET AL.

Examiner

Jamisue A. Webb

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 17-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20030827.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 17-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. With respect to Claims 17 and 18: the phrase “altering one or both of the assembled sets” is indefinite. Previously in Claim 17 it recites only one assembled set of parts, this phrase indicates that there are two sets. Therefore it is unclear to the examiner how many sets there actually are, and what the term “both” is referring to.

4. Claims 17 and 18 recites the limitation "the predetermined order of making the items". There is insufficient antecedent basis for this limitation in the claims. The claims previously recited a predetermined order in the assembling the set step, therefore it is unclear what “the predetermined order of making” is.

5. With respect to Claims 18 and 19: the phrase “ordering production from assembled set of parts” is indefinite. It is unclear to the examiner as to the productions of what is ordered. The claim recites what the production is from, but now what is of.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bellini et al. (5,974,395) in view of Bush Jr. (6,486,899).

9. With respect to Claim 17: Bellini discloses a method of scheduling, manufacturing and shipping items (see abstract) comprising the steps of:

- a. Assembling a set of parts needed to make a predetermined amount of items (See Figure 3, and Column 9 lines 1-37),
- b. Providing a delivery network (See Figure 3)
- c. Inserting items into the network (See Figure 3), and
- d. Projecting relative congestion along routes and alternating delivery plan to compensate for the congestion (Column 3, lines 27-61).

Belinni however fails to specifically disclose a plurality of delivery network points and monitoring the items at each of the network points. Bush discloses the use of a supply chain network with origin points mixing points and termination points (See Figure 2B and abstract)

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and monitoring items within the network supply chain at each point (Column 2, lines 43-54). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Bellini with the plurality of network points and monitoring the items at the network points, in order to aid a supply chain planner in evaluating the performance of the supply chain in order to discover logistical network problems. (See Bush Column 2)

10. With respect to Claim 18 and 19: Bellini discloses planning the system to be ordered from lower to upper levels. In the car manufacturing network it goes from material provider, to assembly of parts, to dealer (Column 9, lines 1-7), which the examiner considers to be a sequential order.

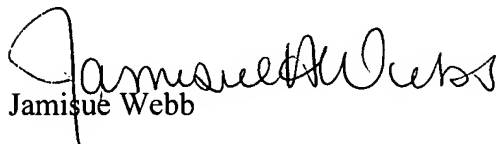
### ***Conclusion***

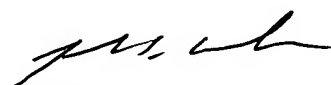
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Brockman (5,884,300) discloses inventory management between the manufacturing and field consumption points, Mueller et al. (4,950,118) discloses the use of a system for loading and unloading goods off of trailers, Hansen et al. (4,773,523) discloses a method for automated loading of parts into a vehicle, Lepper et al. (5,844,802) discloses production line tracking and quality control, Patel (5,953,706) discloses the use of a transportation network system, Radican (6,148,291 and 5,712,789) disclose the use of monitoring containers and inventory, Chirieleison et al. (WO 99/61967) discloses a use of an inventory management system, and Higginson et al. (Policy recommendations for a shipment-consolidation program), discloses using a central controller in a supply chain, Slom (Tuesday Morning DC Set For Expansion) discloses a network that is used for coordinate shipping from manufacturing to retail stores.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jamisue Webb

  
**JOHN G. WEISS**  
**SUPERVISORY PATENT EXAMINER**  
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